

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION

CLARENCE LEONARD #687550                   §  
v.   §   CIVIL ACTION NO. 9:05cv194  
BRAD LIVINGSTON, ET AL.                   §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE  
AND ENTERING FINAL JUDGMENT

The Plaintiff Clarence Leonard, proceeding *pro se*, filed this civil rights lawsuit complaining of alleged violations of his constitutional rights. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Leonard complained that he was being denied a “constitutional liberty interest in parole” because he not had been given notice that his file contained allegedly false information “precluding him as a gang member.” On December 16, 2005, the Magistrate Judge issued a Report recommending that the lawsuit be dismissed as frivolous because under Fifth Circuit precedent, Texas prisoners have no liberty or property interest in parole and thus cannot mount a challenge against any state parole review procedure on procedural or substantive due process grounds. Johnson v. Rodriguez, 110 F.3d 299, 310 (5th Cir. 1997). The Fifth Circuit also stated in that case that the allegations that the Parole Board considered unreliable or even false information in making a parole determination did not assert a federal constitutional violation.

Leonard received a copy of the Magistrate Judge’s Report recommending dismissal on December 21, 2005, but filed no objections thereto; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal

conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

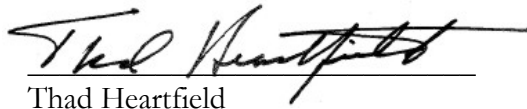
The Court has examined the Plaintiff's pleadings, the Report of the Magistrate Judge, and all documents and records in the case. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is DISMISSED with prejudice as frivolous. It is further

ORDERED that any and all motions which may be pending in this lawsuit are hereby DENIED.

**SIGNED** this the 27 day of **January, 2006**.

  
Thad Heartfield  
United States District Judge